THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.15743 AND 15753 OF 2006

COMMON ORDER:

These two writ petitions are filed by one Perla Krishna Murthy, who is brother-in-law of third respondent. The third respondent filed an application before the Revenue Divisional Officer, Medak (RDO), first respondent herein, alleging that her husband late Narahari, the petitioner and two other brothers-in-law constituted Hindu Joint Family owning lands in survey Nos.429, 387/5, 251, 329, 330, 387, 391, 433/AA1 and 136/A admeasuring Acs.31.02 guntas situated at Konthanpally village of Shivampet Mandal, that in a family partition, the petitioner got Acs.15.17½ guntas, the third respondent got Acs.15.19½ guntas and one Perla Ramchendram got Acs.0.05 guntas and that the petitioner got an extent of Acs.21.33 guntas in various survey numbers registered in his name without any consent from the third respondent. She requested for rectification of the record of rights. RDO issued notice to all the concerned and obtained a report from the Mandal Revenue Officer, Shivampet (MRO), who reported that the petitioner obtained an unregistered sale deed from Smt.Kairunnisa Begum in respect of the land in survey Nos. 329 (Acs.5.00 guntas), 330/1 (Acs.1.20 guntas) and 387/1 (Acs.12.14 guntas) situated at Konthanpally village while the petitioner, third respondent and others were living the joint family and obtained regularization in Form 13(B). Even after receipt of notice, the petitioner did not appear and therefore, after conducting enquiry, the RDO set aside the proceedings of the MRO registering the land in favour of the petitioner and remanded the matter to MRO for conducting enquiry. The said order of the RDO, dated 30.01.2006, is assailed in W.P.No.15743 of 2006. It appears the RDO sent another communication, dated 30.04.2006 to implement the orders, and accordingly the MRO, Shivampet, conducted enquiry and issued proceedings on 22.05.2006 directing to issue record of rights to the petitioner and third respondent equally in an extent of Acs.9.17 guntas. This order is assailed in W.P.No.15753 of 2006.

This Court has heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue. It is mainly contended that the order of the RDO and the order of the MRO are unsustainable for want of notice. Secondly, it is urged that it is only the petitioner who purchased the property under unregistered sale deed from Kairunnisa Begum and got it regularized by the MRO, and therefore, the third respondent has no right in the property.

A perusal of the order of the RDO, dated 30.01.2006, would show that in spite of service of notice, the petitioner did not appear before the RDO and therefore, the submission that no notice is issued

cannot be accepted. Further, as rightly pointed out by the learned Assistant Government Pleader pursuant to the order of the RDO, the MRO already conducted enquiry and issued proceedings, dated 22.05.2006, directing to change the mutation for Acs.9.17 guntas in favour of the third respondent. Therefore, the petitioner cannot raise any dispute now in relation to the order passed by the RDO. Insofar as the order of the MRO is concerned, the counsel for the petitioner does not dispute that against the said order, a revision lies under Section 9 of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). The remedy being an effective alternative remedy should have been availed in the first instance, especially, when the petitioner claims the property in survey Nos.387, 329 and 330/1 as having purchased from Kairunnisa Begum.

For the above reasons, W.P.No.15743 of 2006 is dismissed and W.P.No.15753 of 2006 is disposed of giving liberty to the petitioner to prefer revision petition before the Joint Collector, Medak, under Section 9 of the Act. There shall be an order accordingly. No costs.

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(V.V.S.RAO,J)

31.07.2006
pln